

REMARKS

The Office Action mailed on May 27, 2009 has been reviewed and the comments of the Examiner carefully considered. Claim 10 has been cancelled herein. Claims 1, 2, 5-9, and 11-15 are pending.

Examiner Interview Summary

Applicants thank the Examiner for discussing this application with their representative, Thomas Sosson, on October 30, 2009. Applicants understand that Mr. Sosson explained that in part, the presently-claimed device treats a wound by treating wound *fluid*, but that the therapeutic agent does not contact the wound itself. Applicants also understand that the Examiner determined, as an outcome of the interview, that the rejections under 35 U.S.C. § 112 and the rejections based on the prior art have been rendered moot.

In the Summary of the Interview mailed by the Office, Applicants respectfully note that the stated summary does not reflect the substance of the interview with complete accuracy. In particular, the summary states that “[T]he therapeutic agent could contact the exudate without passing through the apertures because it is in a cloth behind the apertures.” While this reflects merely one embodiment of the invention, the specification – and the full substance of the interview – more broadly acknowledges that the therapeutic agent is and can be contained behind the apertures in the device in any manner now known or to be developed in the future. That is, the substrate containing the therapeutic agent is not limited to “cloth”. Furthermore, the invention is not limited by any particular substrate, nor by the particular means or method of dispersing an agent in or on a substrate larger than the total area of the aperture, wherein the therapeutic agent is retained inside the envelope after the aperture is opened.

Claim Objections

Claim 1 was objected to as requiring clarification that “no part of the therapeutic agent contacts the wound surface after the device has been applied to the wound,” since a therapeutic agent can allegedly also be considered to “not contact a wound” simply by not applying a wound healing device to a wound.

Applicants respectfully submit that, in view of the understanding reached with the Examiner during the telephonic interview, the claim objection has been rendered moot.

Nonetheless, Applicants also note that the claim objection would not apply, as the intended use of the device, i.e., a “wound treatment device”, implies that the device would be used at or near a wound. Furthermore, the claim elements pertaining to degradable material comprising the device, wherein such material breaks down in the presence of wound fluid, further implies that the wound fluid is in communication between a wound and the device.

Rejections under 35 U.S.C. § 112, First Paragraph (“Enablement”)

Claim 1 was rejected as allegedly not being enabled by the disclosure of the specification. As set forth above, the Examiner has acknowledged that this rejection has been rendered moot due to the current understanding of the claimed invention as a result of the interview.

Nonetheless, for the sake of completeness, Applicants further note that the understanding reached in the interview included that, in part, the presently-claimed device treats a wound by treating wound *fluid*, but that the therapeutic agent does not contact the wound itself.

Accordingly, Applicants respectfully submit that the rejection does not apply, and request withdrawal of the rejection.

Rejections under 35 U.S.C. § 103

Claims 1, 2 and 5-15 were rejected as allegedly being obvious over U.S. Patent No. 4,499,896 (“Heinecke”) in view of U.S. Patent No. 5,759,570 (“Arnold”). As set forth above, the Examiner has acknowledged that this rejection has been rendered moot due to the understanding reached by the Office during the interview. Nonetheless, for the sake of completeness, Applicants also note that the combination of Heinecke and Arnold does not teach or suggest the presently-claimed invention for the following reasons.

As a preliminary matter, Applicants have canceled claim 10, rendering the rejection of this claim moot.

As acknowledged by the Examiner in the interview, the presently-claimed device, in part, treats a wound by treating wound *fluid*, but the therapeutic agent does not contact the wound itself. Neither Heinecke nor Arnold teaches such a device. As set forth in the Office Action, Heinecke does not teach a therapeutic material at all, and Arnold teaches a therapeutic material that is released into the wound fluid, thereby contacting the wound surface. Neither reference taken alone, nor the combination of the references, teaches a device wherein the therapeutic

agent is dispersed in or on a substrate larger than the total area of the aperture, wherein the therapeutic agent is retained inside the envelope after the aperture is opened, and wherein no part of the therapeutic agent contacts the wound surface.

Accordingly, the skilled artisan viewing the references together would not find motivation to arrive at the present claims. Therefore, Applicants further submit that the claims are not obvious, and that the rejections of claims 1, 2, 5-9 and 11-15 under 35 U.S.C. § 103(a) be reconsidered and withdrawn.

Conclusion

Applicants respectfully submit that the pending claims are in condition for allowance. An early Notice of Allowance is therefore earnestly solicited. Applicants invite the Examiner to contact the undersigned at (215) 963-5809 to clarify any unresolved issues raised by this response.


The Director is hereby authorized to charge/credit Deposit Account No. **50-0310** (Billing No. 101713-5030) for any other required fees, deficiencies or overpayments in connection with this Response.

Respectfully submitted,

DEBORAH ADDISON, ET AL.

Date: November 24, 2009

By:


Thomas M. Sossong, Jr., Ph.D.
Registration No. **48,463**
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921
Telephone: (215) 963-5809
Facsimile: (215) 963-5001
E-Mail: tsossong@morganlewis.com